UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,150	08/22/2003	Sheldon H. Foss JR.	03001.1020	8917

35856   7590   02/19/2008
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EXAMINER
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ART UNIT	PAPER NUMBER
3692	

MAIL DATE	DELIVERY MODE
02/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
Office Action Summary	10/646,150	FOSS ET AL.
	Examiner	Art Unit	
	ELIZABETH ROSEN	3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _28 November 2007_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-6,8-11,13 and 15-23_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1-6, 8-11, 13, and 15-23_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _22 August 2003_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Status of Claims

1.   This action is in reply to the Amendment and Response filed on November 28, 2007.

2.   Claims 1, 5, 8, 11, 13, 15, and 17 have been amended.

3.   Claims 7, 12, and 14 have been canceled.

4.   Claims 21-23 have been added.

5.   Claims 1-6, 8-11, 13, and 15-23 are currently pending and have been examined.

Specification

6.   The disclosure is objected to because the first paragraph of the first page contains a blank space for the serial number of the pending application entitled "SYSTEM FOR PROVIDING A CHECKLESS CHECKING ACCOUNT." Appropriate action is required.

Response to Arguments

7.   The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant.   Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply.   Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

8.   In light of the amendments made to the claims and the new basis of rejection, Applicant's arguments are moot. Applicant should refer to the rejections below.

Claim Rejections - 35 USC § 112

9.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

10.   **Claims 1, 5, 21, 22, and 23** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.   The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

11.   These claims contain the limitation of providing "*feedback information to the decision engine and the account management component.*" This limitation is new matter because it is not described in the specification.

Claim Rejections - 35 USC § 103

12.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains.   Patentability shall not be negatived by the manner in which the invention was made.

13.   **Claims 1-4 and 8-10** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sgaraglio** et al., U.S. Patent Application Publication Number 2003/0187778 A1.

Claim 1:

Sgaraglio discloses the limitations of:

- *a data collection component, wherein said data collection component is operable to receive account option data and account formation data pertaining to a customer* (see at least Sgaraglio, paragraphs 0037 (Merchant information associate with an application is gathered.) and 0044);

- *a decision engine operable to qualify the customer for an account based at least in part on said formation data and said account option data* (see at least Sgaraglio, paragraph 0041 (The application is approved.));

- *an account creation component operable to establish an account for the qualified customer based at least in part on the account option data and account formation data* (see at least Sgaraglio, paragraphs 0015 (The account is created.), 0046, and 0053);

- *an account management component operable to perform periodic account management and maintenance of said financial account* (see at least paragraphs 0046, 0055 (The account is serviced.), and 0076);

- *a transactional processing component operable to receive transactions and clear the transactions against the account* (see at least Sgaraglio, Figure 1, Item 26 and paragraphs 0015, 0036, and 0047); and

- *a data aggregation module coupled with the account management component and the decision engine, and configured to aggregate data associated with the transactions* (see at least Sgaraglio, Figure 1 and paragraphs 0042 (Transaction and account data is stored and used to generate reports.), 0046, 0054, 0076, and 0081).

Sgaraglio does not explicitly disclose:

- *provide feedback information to the decision engine and the account management component.*

However, Sgaraglio does disclose, in paragraph 0040, that before an account is approved, information is considered. Furthermore, Sgaraglio discloses, in paragraph 0044, that merchant application information is gathered and stored and used to establish new accounts. Additionally, Sgaraglio discloses, in paragraph 0051, that the underwriter can receive credit risk information relating to the merchant. This information is used to determine whether to grant credit to the merchant. It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature with Sgaraglio's system and method for merchant application and underwriting. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of using information in order to determine whether to grant credit to a merchant account. It would be obvious that data is needed to determine risk of underwriting. Furthermore, this limitation is a slight variation of what is disclosed in Sgaraglio.

Claim 2:

Sgaraglio further discloses:

- *an underwriting component operable to apply qualification criteria to qualify customers for an account* (see at least paragraphs 0040, 0045, and 0051).

Claim 3:

Sgaraglio further discloses:

- *at least one risk model coupled to said underwriting component operable to model risks associated with said financial account and associated with said qualification criteria* (see at least paragraphs 0040, 0045, and 0051).

Claim 4:

Sgaraglio further discloses:

- *an account behavior component operable to examine a customer's account behavior* (see at least paragraphs 0042, 0046, 0054, 0076, and 0081).

Claim 8:

Sgaraglio further discloses:

- *an underwriting component operable to applying qualification criteria* (see at least Sgaraglio, Figure 1, Item 20 and paragraphs 0039 and 0040); and
- *at least one risk model coupled to said underwriting component and associated with said qualification criteria operable to model risks associated with said financial account* (see at least paragraph 0040).

Claim 9:

Sgaraglio further discloses:

- *wherein said at least one risk model is coupled to said data aggregation module and said account behavior component, wherein said at least one risk model is operable to update risk models based upon said aggregated data and said account behavior, whereby said qualification criteria is updated* (see at least paragraphs 0040, 0042, 0046, 0051, 0054, 0076, and 0081 and claim 23).

Claim 10:

Sgaraglio further discloses:

- *wherein said account management component performs account management and maintenance based upon said risk models* (see at least paragraphs 0040, 0055,and 0078).

14.   **Claims 5, 11, 13, 15, 17, and 21-23** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sgaraglio** et al., U.S. Patent Application Publication Number 2003/0187778 A1 in view of **Cushing** et al., U.S. Patent Application Publication Number 2001/0034684 A1.

Claim 5:

> **Sgaraglio** does not disclose, but **Cushing**, however, does disclose:

- *wherein said decision engine is configured to alter underwriting criteria based on said feedback information* (see at least Cushing, paragraphs 0052 and 0053); and

- *said account management component is configured to alter parameters of said financial account based on said feedback information* (see at least Cushing, paragraphs 0052 and 0053).

> It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Cushing's method of using data gathered from customer responses to determine whether the customer qualifies for underwriting with Sgaraglio's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of determining whether the customer qualifies for underwriting based on the most current information (see at least Cushing, paragraphs 0052 and 0053).

Claim 11:

> **Sgaraglio** discloses:

- *aggregating transaction data regarding a plurality of financial accounts* (see at least Sgaraglio, paragraphs 0042, 0047 (Information that is used to correlate transactions with merchants is sent to a credit processing system computer.) and 0054).

> **Sgaraglio** does not disclose, but **Cushing**, however, does disclose:

- *modifying the services available to the financial account based on the aggregated transaction data* (see at least Cushing, paragraphs 0052 and 0053); and

- *modifying underwriting criteria for new financial accounts based on the aggregated transaction data* (see at least Cushing, paragraphs 0052 and 0053).

> It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Cushing's method of using data gathered from customer responses to determine whether the customer qualifies for underwriting with Sgaraglio's

system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of determining whether the customer qualifies for underwriting based on the most current information (see at least Cushing, paragraphs 0052 and 0053).

Claim 13:

Sgaraglio further discloses:

- *wherein a risk model is available* (see at least paragraph 0040); and
- *running the risk model based at least in part on the aggregated data* (see at least paragraphs 0040 and 0045).

Sgaraglio does not disclose, but **Cushing**, however, does disclose:

- *modifying the underwriting criteria based at least in part on the results of the risk model* (see at least paragraphs 0053, 0085, and 0086).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Cushing's method of using data gathered from customer responses to determine whether the customer qualifies for underwriting based on the risk models with Sgaraglio's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of determining whether the customer qualifies for underwriting based on the most current risk models (see at least Cushing, paragraphs 0052, 0053, 0085, and 0086).

Claim 15:

Sgaraglio does not disclose, but **Cushing**, however, does disclose:

- *modifying the underwriting criteria* (see at least paragraph 0053).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Cushing's method of using data gathered from customer responses to determine whether the customer qualifies for underwriting with Sgaraglio's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of determining whether the customer qualifies for underwriting based on the most current information (see at least Cushing, paragraphs 0052 and 0053).

Claim 17:

Sgaraglio further discloses:

- *wherein the step of aggregating transaction data comprises the step of receiving transaction information regarding financial transactions associated with the financial account* (see at least paragraph 0042, 0046, 0054, 0076, and 0081).

Claim 21:

Sgaraglio discloses the limitations of:

- *an account management component configured to manage a plurality of financial accounts* (see at least Sgaraglio, paragraph 0046 (Tracking computers are used to service accounts.));

- *a transactional processing component configured to process and monitor transactions between the plurality of financial accounts and a financial transaction network* (see at least Sgaraglio, Figure 1, Item 26 and paragraphs 0015, 0036, and 0047);

- *a data collection component configured to receive account information for a new account* (see at least Sgaraglio, paragraphs 0037 (Merchant information associate with an application is gathered.));

- *a decision engine configured to qualify the new account based on underwriting criteria and the account information* (see at least Sgaraglio, paragraph 0041 (The application is approved.));

- *an account creation component configured to establish the qualified account based on the account information* (see at least Sgaraglio, paragraphs 0015 (The account is created.), 0046, and 0053); and

- *a data aggregation module configured to process transaction data from the transactional processing component* (see at least Sgaraglio, Figure 1 and paragraphs 0042 (Transaction and account data is stored and used to generate reports.), 0046, 0054, 0076, and 0081).

Sgaraglio does not explicitly disclose:

- *provide feedback information to the account management component and the decision engine.*

However, Sgaraglio does disclose, in paragraph 0040, that before an account is approved, information is considered. Furthermore, Sgaraglio discloses, in paragraph 0044, that merchant application information is gathered and stored and used to establish new accounts. Additionally, Sgaraglio discloses, in paragraph 0051, that the underwriter can receive credit risk information relating to the merchant. This information is used to determine whether to grant credit to the merchant. It would have been prima facie

obvious to one of ordinary skill in the art at the time of the invention to incorporate this feature with Sgaraglio's system and method for merchant application and underwriting. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of using information in order to determine whether to grant credit to a merchant account. It would be obvious that data is needed to determine risk of underwriting. Furthermore, this limitation is a slight variation of what is disclosed in Sgaraglio.

Sgaraglio does not disclose, but **Cushing**, however, does disclose:
- *for altering the underwriting criteria and parameters of the financial accounts* (see at least Cushing, paragraphs 0052 and 0053).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Cushing's method of using data gathered from customer responses to determine whether the customer qualifies for underwriting with Sgaraglio's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of determining whether the customer qualifies for underwriting based on the most current information (see at least Cushing, paragraphs 0052 and 0053).

Claim 22:

Claim 22 is rejected using the same rationale as for the rejection of Claim 5.

Claim 23:

Sgaraglio further discloses:
- *wherein the decision engine interfaces with a risk model which is updated on the feedback information from the data aggregation module* (see at least Sgaraglio, Figure 1 and paragraphs 0038 and 0045 (Data used for risk calculations may be modified in order to generate revised risk calculations.)).

15.   **Claims 6, 19, and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sgaraglio** et al., U.S. Patent Application Publication Number 2003/0187778 A1 in view of **Cushing** et al., U.S. Patent Application Publication Number 2001/0034684 A1, and further in view of **O'Connor**, U.S. Patent Application Publication Number 2004/0078325 A1.

Claim 6:

   Sgaraglio does not disclose, but **O'Connor**, however, does disclose:

- *a controller operable to enable and disable functions and privileges of said account based upon said aggregated data* (see at least paragraph 0054).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate O'Connor's method of activating and deactivating an account with Sgaraglio's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making the account active for specified transactions, based on customer preferences (see at least O'Connor, paragraph 0054).

Claim 19:

   Sgaraglio does not disclose, but **O'Connor**, however, does disclose:

- *wherein the step of modifying the services comprises the step of modifying restrictions on transactions for the financial account* (see at least paragraph 0052).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate O'Connor's method of restricting transactions with Sgaraglio/Cushing's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of restricting transactions based on criteria such as maximum monetary amounts, specified geographic regions, or specified goods or services (see at least O'Connor, paragraph 0052).

Claim 20:

   Sgaraglio does not disclose, but **O'Connor**, however, does disclose:

- *wherein the step of modifying the services comprises the step of temporarily disabling one or more services associated with the financial account* (see at least paragraphs 0052, 0053, and 0054).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate O'Connor's method of making the account active for temporary windows with Sgaraglio/Cushing's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of making the account active for specified

transactions and temporarily deactivating the account upon completion of the specified transaction (see at least O'Connor, paragraphs 0052, 0053, and 0054).

16.   **Claims 16 and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Sgaraglio** et al., U.S. Patent Application Publication Number 2003/0187778 A1 in view of **Cushing** et al., U.S. Patent Application Publication Number 2001/0034684 A1, and further in view of **Lent** et al., U.S Patent Number 6,405,181 B2.

Claim 16:

Sgaraglio does not disclose, but **Lent**, however, does disclose:

- *wherein the step of modifying the services comprises the step of modifying the fees associated with services* (see at least column 13, lines 50-60 and column 15, lines 36-40, 53-65).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Lent's method of adjusting the interest rate or annual rate with Sgaraglio/Cushing's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of adjusting the fee to coincide with the level of risk of default (see at least Lent, column 13, lines 50-60 and column 15, lines 36-40, 53-65).).

Claim 18:

Sgaraglio does not disclose, but **Lent**, however, does disclose:

- *wherein the step of modifying the services comprises the step of modifying a line of credit associated with the financial account* (see at least column 13, lines 50-60, column 14, lines 39-45, and column 15, lines 36-40, 53-65).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate Lent's method of adjusting the credit limit with Sgaraglio/Cushing's system and method for establishing credit services with a merchant account. One of ordinary skill in the art would have been motivated to incorporate this feature for the purpose of adjusting the credit limit to coincide with the risk of default (see at least Lent, column 13, lines 50-60, column 14, lines 39-45, and column 15, lines 36-40, 53-65).

Conclusion

17.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth Rosen whose telephone number is 571-270-1850. The examiner can normally be reached on Monday - Friday, 8:30 am-6:00 pm est, alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Abdi can be reached at 571-272-6702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nga B. Nguyen/
Primary Examiner, Art Unit 3692